# MINUTES OF THE SOUTH OGDEN CITY PLANNING COMMISSION SPECIAL MEETING

Council Chambers, City Hall Thursday, December 4, 2014 – 6:15 p.m.

#### PLANNING COMMISSION MEMBERS PRESENT

Chairman Todd Heslop, Commissioners Shannon Sebahar, Steve Pruess, Raymond Rounds, and Chris Hansen

#### PLANNING COMMISSION MEMBERS EXCUSED

Commissioners Dax Gurr and Mike Layton

#### **STAFF PRESENT**

City Manager Matt Dixon, City Planner Mark Vlasic and City Recorder Leesa Kapetanov

## **OTHERS PRESENT**

Gerrine Killian, Ted Killian, Randall Parkinson, James McGregor, DeVan & Baineta Deppe, Norbert Didier, Robert & Deborah Bliss, Eric & Tami Hargrove, Ralph & Kathy Reese, Merlin Bingham, Jerry Cottrell and Roz O'Loughlin

Note: There was no briefing meeting for this planning commission special meeting.

#### I. CALL TO ORDER AND OVERVIEW OF MEETING PROCEDURES

Chairman Todd Heslop called the meeting to order at 5:39 pm and called for a motion to open.

Commissioner Sebahar moved to open the meeting, with a second from Commissioner Pruess. All present voted aye.

#### II. SPECIAL ITEMS

Chairman Heslop reminded those present this meeting was a continuation of discussions from the October and November planning commission meetings, where they had discussed uses in residential zones. The chairman read through the agenda and then asked City Planner Mark Vlasic to review his recommendations. Mr. Vlasic stated they had already covered the R-1, R-2 and R-3 zones, so he began his review by going over the reasons for higher density zones. said they served as transition zones between lower density residential zones and commercial zones, therefore they began allowing uses that were not residential in nature, such as offices, or nursing homes. He went through the remaining high density zones, pointing out the differences between each. Mr. Vlasic also talked about the zc zones, recommending that they should be kept, but perhaps renamed. The commissioners discussed the reasoning behind the zc zones and the benefits and drawbacks from having them. They determined they should remain as they are, but the zc part could be removed from the name (e.g. R-5A zone instead of R-5zc(AB)). Commissioner Rounds then suggested a change in the definition of credit unions. There was a time when banks were considered large institutions and credit unions were more conducive to residential uses because they were smaller; however, that was not the case now. He also suggested another definitional change; the word "fraternal" should be removed in the uses and replaced with beneficial societies. Commissioner Heslop also requested some

language be added in the code that said if it is not listed as a use, then it is prohibited. He also pointed out they had discussed taking the term "bachelor and bachelorette" out of the code as it was outdated.

City Planner Vlasic pointed out there were many updates that needed to take place throughout the ordinance. He suggested that the commission only look at the uses in the residential zones now, and do a comprehensive update, including terminology, of the whole zoning ordinance later. The commissioners discussed it and determined they would make corrections now to the terminology, definitions and clarifying now.

Commissioner Sebahar wondered why "household pets" was a use. They noticed it had been removed as a use in higher density zones, but they thought that the apartment complex or HOA of a higher density development should determine whether pets should be allowed or not. The consensus was that "household pets" was not a use and should be removed from all zones. They next looked at the definition of boarding and lodging houses and wondered if the terms were outdated. After discussion, they determined to remove the uses from all zones; if it needed to be added later on based on the need, they would re-define it and determine where it would best be added.

The commissioners next discussed "residential facility for disabled persons" and that it should be added as a permitted use in all residential zones so as not to be in conflict with the Fair Housing Act. The point was made that any part of the zoning ordinance that did not comply with state or federal statutes should be corrected, especially as relating to the Fair Housing Act and Americans with Disabilities Act. City Planner Vlasic suggested some wording be added in the ordinance stating that no part of the ordinance would be enforced that failed to comply with the Utah Fair Housing Act, the Federal Fair Housing Act, the Americans with Disabilities Act or other provisional federal law.

Mr. Vlasic then read his recommendation for the definition of "Educational Institution", which added "charter school" to the definition and then stated that boarding was not allowed for any school. The commissioners liked the changes made.

Planner Vlasic then reminded the commissioners they had previously discussed creating special zones for schools, churches, public buildings, parks and golf courses. He recommended against it, saying it could be looked at as excluding schools and other public uses from specific neighborhoods, especially if the use was not applied uniformly or if it did not support the general plan. He had also spoken with a representative of the Weber School District, who had many concerns about creating a special zone for educational uses. First, since there was no land left in South Ogden for future schools, he felt the creation of a special zone would restrict any future attempts to locate a school in the city. He also said that if the school district was required to request a rezoning to locate a school in South Ogden, it would most likely look to locating a school in a surrounding city that did not require the process, thus driving the price of the property up. The process of having to get a zoning change would also increase the likelihood that South Ogden students would be bused to neighboring communities to attend school. Mr. Vlasic recommended that no special zone for schools be created and that the city simply make the suggested changes to the definition for educational institution. discussed briefly the differences between charter, public and private schools, and how other cities had handled them.

Chairman Heslop then moved the discussion to PRUD and Cluster Subdivisions. Planner Vlasic went over the advantages to PRUD and Cluster Subdivisions, stating they were useful tools for cities and developers. His recommendation was that PRUD's be allowed as permitted uses in all residential zones, as there was a whole chapter that clearly outlined what was and wasn't allowed in them. Commissioner Sebahar said she felt that the PRUD chapter should be changed to require that all roads and infrastructure be built to the city's standards, even if they were proposed to be privately owned and maintained within the subdivision; she wondered if there was a way to do that and still give the developer enough incentive to build. They discussed the fact that often times HOA's came back to the city to request that the city take the

roads back, but the city refused because the roads and infrastructure were not built to city standards. City Manager Dixon said this was a problem in all communities throughout Utah, and he was in favor of requiring the city's standards be met. They may have to work with developers on density in order for a development to be worthwhile with the new requirement. The consensus of the commission was that the PRUD and Cluster Subdivisions be changed so developers were required to meet city standards.

Note: Commissioner Sebahar left the meeting at 7:20 pm

City Recorder Kapetanov then requested that the commission go through the chart of permitted and conditional uses in residential zones to clarify the changes that needed to be made. City Planner Vlasic stated that some communities had made private schools conditional uses, so that things like traffic studies could be requested; however, everyone needed to remember that a conditional use was a permitted use.

The commission began with the permitted uses in the R-1 zone on the chart (see Attachment A). They determined that Accessory building, Agriculture, and Church, synagogue etc., should all remain the same. The commissioners then discussed "Educational Institutions". They determined that the definition for Educational Institution should be revised to remove private schools and then create a definition for Educational Institutions – Private. The private schools should then be added to all residential zones as a conditional use. Golf courses should remain the same, as should Home occupation, Parking lot, PRUD (requirements for PRUD should include that streets and infrastructure should meet city standards), Public building, Single-family dwelling and Temporary building. Household pets should be removed, as it was not a land use. It was also determined that Greenhouse was covered under accessory buildings and should be removed as a permitted use.

They then looked at conditional uses in the R-1 zone. They discussed Cluster subdivisions; Planner Vlasic pointed out the R-1 zone was the only one where Cluster subdivisions were allowed, however he also made the commission aware of a discrepancy in the cluster subdivision chapter versus the conditional uses in the R-2 zone; the cluster subdivision chapter said it was a conditional use, whereas the R-2 conditional uses did not list it. It was determined it should be a conditional use in the R-2 zone. They also determined the Residential facility for disabled persons should be eliminated from the conditional uses in the R-1 zone and added in the permitted uses; the same should be done for all residential zones. All other conditional uses in the R-1 zone should remain the same; however the term "Group Dwelling" should be changed to "Multiple Dwellings on a single lot" in both the definitions and in the individual zone chapters.

They then looked at the conditional uses in the R-2 zone. They discussed Group dwellings and why they were not allowed in the R-2 zone. They decided to leave Group dwellings out of the zone, as it originally was. They also determined cluster subdivisions should be added as a correction (see previous discussion). The commissioners then talked about cemeteries and if they were appropriate as conditional uses in the R-2 zone as well as all the higher density zones. They decided to leave cemeteries "as is" in all the zones. Changes in the R-2 permitted uses were: allowing PRUDs as permitted uses (this should be done in all residential zones) and making the same changes concerning greenhouses, household pets and Educational Institutions as in the R-1 zone (these changes should occur in all other zones as well).

The commissioners then looked at changes to the R-3 zone. They discussed in more detail the differences between Bachelor and/or bachelorette dwellings, group dwellings, and multiple-family dwellings. They eliminated Two-family dwelling, determining that it was redundant as it was already allowed under the Multiple-family dwelling. They also eliminated Group dwellings and bachelor and bachelorette as they felt they were covered under Multiple-family dwelling. It was also determined that definitions for "Assisted Living" and "Nursing Home" should be created.

The planning commission moved on to the R-3zc(D) and R-3zc(E) zones. They discussed the term "bachelor and bachelorette" and whether they could eliminate the terms altogether. City

Planner Vlasic said he felt the R-3zc(D) and R-3zc(E) zones could be changed by simply removing the words "for bachelor/bachelorette dwellings" from each.

The commissioners then discussed the timeline for completing everything in relation to the end of the moratorium. Staff informed them there would be a good chance the moratorium would be extended by the city council. The commissioners then discussed whether the changes to the ordinance would be completed in time for the public hearing which was scheduled for the next week. They determined that the public hearing should still be held as scheduled. The commission then looked at the R-4 zone; as in the previous discussion, they removed the reference to bachelor and bachelorette as they felt it would be covered under multiple-family dwellings. They then discussed boarding and lodging house, college or university and daycare center, deciding that all three new uses should remain in the R-4 permitted uses. In the conditional uses the only change made, besides the ones that had been previously discussed as needing to be changed in all zones, was the term "sanitarium" be eliminated; it was out of date and no longer used.

The R-4zc(E)zone had no changes.

The commission next looked at the R-5 zone. They looked at the permitted use of credit union and discussed if it were appropriate in an R-5 zone, with staff pointing out there was already a credit union existing in an R-5 zone. Mr. Vlasic agreed with Commissioner Rounds earlier observation that there was not much difference between banks or credit unions as far as the size of buildings or intensity of use as there had once been. The planning commissions determined that credit unions were appropriate for the zone, but that the term should be changed to "financial institutions" and include banks. Wording should also be added that the term did not include short term lenders. Planner Vlasic pointed out that many of the conditional uses in the R-4 zone were now permitted uses in the R-5 zone. After discussion, the commission determined they should remain the same. They then looked at the conditional uses in R-5 zone. They eliminated the term "Apartment Hotels" as well as "Fraternal and Sorority House". They also discussed the use of laboratories, determining that medical type laboratories were appropriate, but others were not. They directed staff to create a term for medical labs and they should be allowed in the R-5 zone as a conditional use. Lastly, the planning commission reviewed all the R-5zc zones. It was pointed out that they were all created for specific reasons, for example the R-5zc(AB) zone was created specifically for senior housing. They looked at the uses, both permitted and conditional, and discussed whether they were appropriate or not. There were no changes made to the R-5zc zones other than the ones that were made in the base R-5 zone and were also applicable to the zc zones. There was no more discussion on residential uses.

#### III. OTHER BUSINESS

#### **Discussion on Amending Policies and Procedures**

Chairman Heslop reminded the commissioners this item was concerning public comments and where they should appear on the agenda. City Manager Dixon referred them to a section of their Policies and Procedures that allowed them to amend any agenda for the convenience of the public or staff. Mr. Dixon also suggested that the Policies and Procedures be amended to eliminate a public hearing to be called at the discretion of the Planning Commission if the conditional use might be deemed controversial. Staff had received education lately on land use and when it was appropriate to receive comment from the public. A conditional use application was an administrative matter, and it would not be appropriate to consider public input; they should only consider the application and the code to see if it met the requirements. Mr. Dixon felt the current wording in the Policies and Procedures was problematic and should be eliminated. It was also problematic to define and determine what was controversial. City Recorder Leesa Kapetanov also commented that the distance requirement for notification should be taken out of the Policies and Procedures and be put in the code itself. There was

some discussion by the commissioners on if they agreed with Mr. Dixon's recommendation concerning public hearings for conditional uses; Commissioner Rounds referred to some recent training that said public hearings may be appropriate. He suggested the item be tabled so more information could be found and all members of the commission be present to vote on the matter. The discussion was tabled until the next meeting.

#### IV. APPROVAL OF MINUTES OF PREVIOUS MEETING

#### A. Approval of November 13, 2014 Briefing Minutes

Chairman Heslop indicated it was time for approval of the minutes.

Commissioner Pruess moved to approve the November 13, 2014 Briefing Meeting minutes, followed by a second from Commissioner Rounds. The vote was unanimous to approve the minutes.

## B. Approval of the November 13, 2014 Meeting Minutes

The chair then called for a motion concerning the meeting minutes.

Commissioner Rounds moved to approve the November 13, 2014 meeting minutes. The motion was seconded by Commissioner Hansen. The vote was unanimous in favor of the motion.

All minutes were approved.

#### V. PUBLIC COMMENTS

Jerry Cottrell, 5765 S 1075 E – Mr. Cottrell thanked the commissioners for holding the special meeting. He said the planning commission was making the process harder than it needed to be. He had sat through meetings on form-based zoning, and felt that some of the principles of form based zoning applied to commercial type uses such as banks and credit unions that were allowed in residential zones. He said the commission should create a vision and work toward the vision. He wondered why there were provisions in the code for trailer courts if there were none in the city. Why was there something in the code that didn't fit in with the city's vision? Mr. Cottrell also cautioned the commission in creating definitions. He pointed out that nursing homes were a residence for disabled persons. He then said he was disappointed there was no discussion on reasonable accommodation under the Fair Housing Act. The city had paid a lot of money to hire an attorney to define what a reasonable accommodation because the city had not taken the time to define what it was.

Mr. Cottrell then said he thought the city should do away with all conditional uses by defining the zones very well up front and making everything clear. A conditional use was a permitted use, so the conditions really didn't mean anything.

There were no more public comments.

Chairman Heslop then called for a motion to adjourn.

#### VI. ADJOURN

Commissioner Pruess moved to adjourn, followed by a second from Commissioner Rounds. All present voted aye.

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Leesa Kapetanov, City Recorder	January 8, 2015  Date Approved by the Planning Commission
hereby certify that the foregoing is a true, accurate and complete record of Meeting held Thursday, December 4, 2014.	

The meeting adjourned at 9:35 pm.

# **Attachment A**

**Residential Uses Chart** 

	R-1	R-2	R-3	R-3zc(D)	R-3zc(E)	R-4	R-4zc(E)
PERMITTED USE	Accessory building for any permitted use Agriculture Church, symagogue or similar permanent building used for regular religious worship Educational institution eliminate private school from denimition. Add private school from denimition. Add private school from description of the conference of the c	Accessory building for any permitted use Agriculture Church, Symagogue or similar permanent building used for regular religious worship Educational institution Golf course, except miniature golf course Greenhouse, noncommercial only Home occupation Parking lot accessory to uses permitted in this zone Parking lot accessory to uses permitted in this zone Pauli make permitted use as all zones Public building, public park, recreation grounds and associated buildings Single-family dwelling Temporary building for use incidental to construction work Two-family dwelling	Accessory building for any permitted use Agriculture Church, sympagague or similar permanent building used for regular religious worship Educational institution Golf course, except miniature golf course Greenhouse, noncommercial only Home occupation Parking lot accessory to uses permitted in this zone PRUD Public building, public park, recreation grounds and associated buildings Single-family dwelling I emporary building for use incidental to construction work Loss family dwelling allowing standards and so bacheline site develing with 15 or less develing uses. County over the construction work Loss family dwelling with 12 or less develing uses and so bacheline site develing uses a considerable with the construction work. Loss family dwelling with 12 or less develing uses a considerable with the construction with the construction work. Loss family dwelling with 12 or less develing uses a considerable with 12	Same as R-3, except allows higher density (8 units per acre) for bachelor/bacheloratte dwellings	Same as R-3, except allows higher density (11 units per acre) for bachelor/bacheloratte dwellings	Accessory building for any permitted use Agriculture Church, syrangegue or similar permanent building used for regular religious worship Educational institution Golf course, except miniature golf course freenhouse, noncommercial only Home occupation  Parking lot accessory to uses permitted in this zone PRUD Public building, public park, recreation grounds and associated buildings Single-family dwelling Temporary building for use incidental to construction work Two-family dwelling Bachelor and/or bachelorette dwelling with 24 or less dwelling units from dwelling with 24 or less dwelling units and the property building for nonprofit Multiple-family dwelling with 24 or less dwelling units Residential facility for disabled persons Beaarding and Lodging house College or university Daycare center.	Accessory building for any permitted use Agriculture Church, symagogue or similar permanent building used for regular religious worship Educational institution Golf course, except miniature golf course Greenhouse, noncommerdal only Home eccupation Household pets Parking lot accessory to uses permitted in this zone PRUD Public building, public park, recreation grounds and associated buildings Single-family dwelling I emporary building for use incidental to construction work Two-family dwelling Bachelor and/or bachelorette dwelling with 24 or less dwelling units Group dwelling with 24 or less dwelling units Group dwelling with 24 or less dwelling units Authority of the state
CONDITIONAL USE	Cluster subdivisions Group dwelling on a minimum let size of 40,000 s. qt change term to molitiple dwellings on single of the private park, playground or recreation area Public utility substation or water storage reservoir developed by a public agency Residential facility for disabled persons and a permitted use as per filk in every zone.	Cluster sub-livelens fix the code as it matches this.  Group divelling and min-let size of 40,000 sq. ft.  Private park, playgound or recreation area.  Public utility substation or water storage reservoir developed by a public agency maker it permitted.  PRUD  Cemetery with customary incidental uses.	Course subdivisions Group divisions with 18 camora deciling and continue with 18 camora deciling and 1	Same as R-3	Same as R-3	Cluster subdivisions Group dwelling with or more dwelling units Private park, playground or recreation area* Public utility substation or water storage reservoir developed by a public agency Residential facility for disabled persons PRUD Cemetery with customary incidental uses* Bachelor and/or bachelorette dwelling with 25 or more dwelling units Multiple-family dwelling with 25 or more dwelling units Nursing home Assisted Living Units-Write definition for Fraternal and beneficial societies, orders and social duls of a nonprofit nature Hospital, sanitarium (eliminate), clinic Kindergarten Professional and Business effices in which goods or merchandise are not commer- cially created, exchanged or sold Studio for professional work, teaching, performances or exhibitions of the fine arts* Wed ding chapel and reception center*	Cluster subdivisions Group-dwelling-with 25 or more dwelling units. Private-park, playground or recreation area? Public attility substation or water storage reservoir developed by a public agency Residential facility for disabled persons PRUD Cemeters with customary incidental uses? Bachelor and/or hachelorette dwelling with 25 or more dwelling units Multiple-Camily dwelling with 25 or more dwelling units Nursing home Assisted Living Units Fraternal and beneficial sodetles, orders and social dulso of a nonprofit nature Hospital, sanitarium, clinic Kindergarten Professional wark, clinic Kindergarten Professional wark, it caching, performances or exhibitions of the fine arts? Wedding chapel and reception center*

R-5zc(AB)

R-5zc(F)

R-5zc(C)

R-4

R-5